

national bank's or Federal savings association's operational risk exposure adjusted to incorporate qualifying operational risk mitigants; and

(2) The national bank's or Federal savings association's methodology for incorporating the effects of insurance, if the national bank or Federal savings association uses insurance as an operational risk mitigant, captures through appropriate discounts to the amount of risk mitigation:

- (i) The residual term of the policy, where less than one year;
- (ii) The cancellation terms of the policy, where less than one year;
- (iii) The policy's timeliness of payment;
- (iv) The uncertainty of payment by the provider of the policy; and
- (v) Mismatches in coverage between the policy and the hedged operational loss event.

(b) *Qualifying operational risk mitigants.* Qualifying operational risk mitigants are:

- (1) Insurance that:
  - (i) Is provided by an unaffiliated company that the national bank or Federal savings association deems to have strong capacity to meet its claims payment obligations and the obligor rating category to which the national bank or Federal savings association assigns the company is assigned a PD equal to or less than 10 basis points;
  - (ii) Has an initial term of at least one year and a residual term of more than 90 days;
  - (iii) Has a minimum notice period for cancellation by the provider of 90 days;
  - (iv) Has no exclusions or limitations based upon regulatory action or for the receiver or liquidator of a failed depository institution; and
  - (v) Is explicitly mapped to a potential operational loss event;
- (2) Operational risk mitigants other than insurance for which the OCC has given prior written approval. In evaluating an operational risk mitigant other than insurance, the OCC will consider whether the operational risk mitigant covers potential operational losses in a manner equivalent to holding total capital.

### § 3.162 Mechanics of risk-weighted asset calculation.

(a) If a national bank or Federal savings association does not qualify to use or does not have qualifying operational risk mitigants, the national bank's or Federal savings association's dollar risk-based capital requirement for operational risk is its operational risk exposure minus eligible operational risk offsets (if any).

(b) If a national bank or Federal savings association qualifies to use operational risk mitigants and has qualifying operational risk mitigants, the national bank's or Federal savings association's dollar risk-based capital requirement for operational risk is the greater of:

- (1) The national bank's or Federal savings association's operational risk exposure adjusted for qualifying operational risk mitigants minus eligible operational risk offsets (if any); or
- (2) 0.8 multiplied by the difference between:

- (i) The national bank's or Federal savings association's operational risk exposure; and
- (ii) Eligible operational risk offsets (if any).

(c) The national bank's or Federal savings association's risk-weighted asset amount for operational risk equals the national bank's or Federal savings association's dollar risk-based capital requirement for operational risk determined under sections 162(a) or (b) multiplied by 12.5.

### §§ 3.163–3.170 [Reserved]

#### DISCLOSURES

### § 3.171 Purpose and scope.

§§ 3.171 through 3.173 establish public disclosure requirements related to the capital requirements of a national bank or Federal savings association that is an advanced approaches national bank or Federal savings association.

### § 3.172 Disclosure requirements.

(a) A national bank or Federal savings association that is an advanced approaches national bank or Federal savings association that has completed the parallel run process and that has

received notification from the OCC pursuant to section 121(d) of subpart E of this part must publicly disclose each quarter its total and tier 1 risk-based capital ratios and their components as calculated under this subpart (that is, common equity tier 1 capital, additional tier 1 capital, tier 2 capital, total qualifying capital, and total risk-weighted assets).

(b) A national bank or Federal savings association that is an advanced approaches national bank or Federal savings association that has completed the parallel run process and that has received notification from the OCC pursuant to section 121(d) of subpart E of this part must comply with paragraph (c) of this section unless it is a consolidated subsidiary of a bank holding company, savings and loan holding company, or depository institution that is subject to these disclosure requirements or a subsidiary of a non-U.S. banking organization that is subject to comparable public disclosure requirements in its home jurisdiction.

(c)(1) A national bank or Federal savings association described in paragraph (b) of this section must provide timely public disclosures each calendar quarter of the information in the applicable tables in § 3.173. If a significant change occurs, such that the most recent reported amounts are no longer reflective of the national bank's or Federal savings association's capital adequacy and risk profile, then a brief discussion of this change and its likely impact must be disclosed as soon as practicable thereafter. Qualitative disclosures that typically do not change each quarter (for example, a general summary of the national bank's or Federal savings association's risk management objectives and policies, reporting system, and definitions) may be disclosed annually after the end of the fourth calendar quarter, provided that any significant changes to these are disclosed in the interim. Management may provide all of the disclosures required by this subpart in one place on the national bank's or Federal savings association's public Web site or may provide the disclosures in more than one public financial report or other regulatory reports, provided that the national bank or Federal savings association publicly

provides a summary table specifically indicating the location(s) of all such disclosures.

(2) A national bank or Federal savings association described in paragraph (b) of this section must have a formal disclosure policy approved by the board of directors that addresses its approach for determining the disclosures it makes. The policy must address the associated internal controls and disclosure controls and procedures. The board of directors and senior management are responsible for establishing and maintaining an effective internal control structure over financial reporting, including the disclosures required by this subpart, and must ensure that appropriate review of the disclosures takes place. One or more senior officers of the national bank or Federal savings association must attest that the disclosures meet the requirements of this subpart.

(3) If a national bank or Federal savings association described in paragraph (b) of this section believes that disclosure of specific commercial or financial information would prejudice seriously its position by making public information that is either proprietary or confidential in nature, the national bank or Federal savings association is not required to disclose those specific items, but must disclose more general information about the subject matter of the requirement, together with the fact that, and the reason why, the specific items of information have not been disclosed.

(d) Except as otherwise provided in paragraph (b) of this section, an advanced approaches national bank or Federal savings association must publicly disclose each quarter its supplementary leverage ratio and its components as calculated under subpart B of this part in compliance with paragraph (c) of this section; however, the disclosures required under this paragraph are required without regard to whether the national bank or Federal savings association has completed the parallel run process and has received notification from the OCC pursuant to § 3.121(d).

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